

appellant on board a vessel at that time or for the indefinite future would be compatible with the requirements of safety at sea and consistent with applicable laws. If one of the offenses enumerated in § 5.61(a) has been found proved, the continued service of the appellant will be presumed not compatible with safety at sea, subject to rebuttal by the appellant; in cases of offenses under § 5.61(a), a temporary credential and/or endorsement may be denied for that reason alone.

(b) A stay of the effect of the Decision of the Commandant on Appeal may be granted by the Commandant upon application by the respondent filed with the notice served on the Commandant under 49 CFR 825.5(b).

(c) An Officer in Charge, Marine Inspection, on presentation of an original stay order, issues a temporary credential and/or endorsement as specified in the stay order. This credential and/or endorsement is effective for not more than six months, renewable until such time as the National Transportation Safety Board has completed its review.

[CGD 82-002, 50 FR 32184, Aug. 9, 1985, as amended by USCG-2006-24371, 74 FR 11215, Mar. 16, 2009]

Subpart K—Review of Administrative Law Judge’s Decisions in Cases Where Charges Have Been Found Proved

§ 5.801 Commandant’s review.

Any decision of an Administrative Law Judge, in which there has been a finding of *proved*, may be called up for review by the Commandant without procedural formality.

§ 5.803 Record for decision on review.

The transcript of the hearing, together with all papers and exhibits filed, shall constitute the record for consideration and review.

[CGD 82-002, 50 FR 32184, Aug. 9, 1985, as amended by USCG-2004-18884, 69 FR 58342, Sept. 30, 2004]

§ 5.805 Action on review.

(a) The Commandant may adopt, in whole or in part, the findings, conclusions, and basis therefor stated by the Administrative Law Judge, may make

entirely new findings on the record, or may remand the case to the Administrative Law Judge for further proceedings.

(b) In no case will the review by the Commandant be followed by any order increasing the severity of the Administrative Law Judge’s original order.

(c) The Decision of the Commandant on Review, shall be the final agency action in the absence of a remand.

[CGD 82-002, 50 FR 32184, Aug. 9, 1985, as amended by USCG-2004-18884, 69 FR 58342, Sept. 30, 2004]

§ 5.807 Commandant’s Decision on Review.

The Commandant’s Decisions on Review are available for reading purposes at Coast Guard Headquarters, at Offices of District Commanders, Sector Offices and Marine Inspection Offices. (See 33 CFR subpart 1.10.)

[CGD 82-002, 50 FR 32184, Aug. 9, 1985, as amended by USCG-2006-25556, 72 FR 36330, July 2, 2007]

Subpart L—Issuance of New Credential or Endorsement After Revocation or Surrender

§ 5.901 Time limitations.

(a) Any person whose credential or endorsement has been revoked or surrendered for one or more of the offenses described in § 5.59 and § 5.61(a) may, three years after compliance with the Administrative Law Judge’s decision and order or the date of voluntary surrender, apply for the issuance of a new credential or endorsement.

(b) The three year time period may be waived by the Commandant upon a showing by the individual that, since the occurrence upon which the revocation or surrender was based, the individual has demonstrated his good character in the community for a period exceeding three years.

(c) Any person whose credential or endorsement has been revoked or surrendered for one or more offenses which are not specifically described in §§ 5.59 or 5.61(a) may, after one year, apply for the issuance of a new credential or endorsement.